

Nuclear Regulatory Commission

§ 81.32

upon request, all decisions and the basis thereof under this section.

§ 81.31 Selection of an exclusive licensee.

An exclusive licensee will be selected by the Commission on bases consistent with the policy set forth in § 81.11 of this subpart in accordance with the procedures herein, based upon the information supplied to the Commission in a license application under § 81.40. Consideration will be given to: (a) The capabilities of the applicant to further the technical and market development of the invention to bring the same to the point of practical application, (b) the applicant's plan to undertake development of the invention, (c) the projected impact on competition, (d) the benefit to the Government and the public, as well as (e) assistance to small business and minority business enterprises and economically depressed, low income and labor surplus areas, and (f) whether the applicant is a U.S. citizen or corporation.

§ 81.32 Terms of exclusive license grant.

(a) NRC inventions may be made available for the grant of limited exclusive licenses to responsible applicants who will bring the invention to the point of practical application and make its benefits reasonably accessible to the public.

(1) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or any lesser geographical portion thereof.

(2) The duration of the license will be negotiated and shall include (i) a period of exclusivity specified in the license, which shall be related to the period necessary to provide a reasonable incentive for the licensee to invest the necessary risk capital to bring the invention to the point of practical application and which shall not exceed 5 years or be extended unless the Commission determines on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup

his investment in bringing the invention to the point of practical application; and (ii) a terminal portion, sufficient to make the invention reasonably available for the granting of nonexclusive licenses under § 81.20, during which the licensee may have a nonexclusive license if the licensee continues to make the invention reasonably accessible to the public.

(3) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license agreement, or, subject to the approval of the Commission, within a longer period, and then to continue to make the benefits of the invention reasonably accessible to the public.

(4) The license shall require the licensee to expand a specified minimum sum of money and/or to take other specified action, within indicated periods as specified in the license, in an effort to bring the invention to the point of practical application. Reasonable royalties shall be charged by the Commission, as specified in the license agreement, unless the Commission determines that it would not be in the public interest to charge royalties.

(5) The license shall be subject to an irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the Government of the United States and on behalf of any foreign Government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(6) The license shall reserve to the Commission the right to require the licensee to grant sublicenses to responsible applicants to practice the invention on terms that are reasonable under the circumstances, (i) to the extent that the invention is required for public use by governmental regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) if the invention is useful in the production or utilization of special nuclear material or atomic energy and the licensing of such invention is of importance to effectuate the policies and purposes of the Act, (iv) for other public purposes as stipulated in the license